

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

LIFE IS GOOD, INC.,

Plaintiff,

v.

LG ELECTRONICS U.S.A., INC., and
LG ELECTRONICS MOBILECOMM U.S.A.,
INC., (formerly LG INFOCOMM U.S.A., INC.)

Defendants.

Civil Action No. 04 11290 WGY

Hon. William G. Young

**DECLARATION OF TIMOTHY LEMPER
IN SUPPORT OF DEFENDANTS' MOTION IN LIMINE TO STRIKE
PLAINTIFF'S EVIDENCE OF ALLEGED CONFUSION**

I, Timothy Lemper, declare that the following is true and correct under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am an attorney at the firm of Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, 901 New York Avenue, NW, Washington, D.C. 20001, counsel for Defendants LG Electronics U.S.A., Inc. and LG Electronics MobileComm U.S.A., Inc. ("Defendants") in this case. I am making this Declaration in support of Defendants' Motion in Limine to Strike Plaintiff's Evidence of Alleged Confusion. This declaration is based on my personal knowledge.
2. A chart summarizing Plaintiff's evidence of alleged confusion is attached as Exhibit 1 to this Declaration.
3. A chart summarizing the reasons that each of Plaintiff's alleged instances of confusion are inadmissible is attached as Exhibit 2 to this Declaration.
4. A true and correct copy of Plaintiff's Responses to Defendants' First Set of Interrogatories is attached as Exhibit 3 to this Declaration.
5. A true and correct copy of Plaintiff's Responses to Defendants' First Set of Requests for Production of Documents is attached as Exhibit 4 to this Declaration.

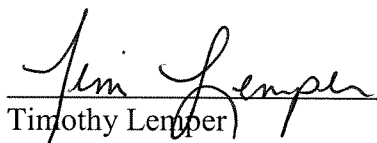
6. True and correct copies of excerpts from the transcript of the October 13, 2005 deposition testimony given by Mr. Albert Jacobs, Plaintiff's President and co-owner and a Rule 30(b)(6) witness for Plaintiff, are attached as Exhibit 5 to this Declaration.

7. True and correct copies of excerpts from the transcript of the October 14, 2005 deposition testimony given by Mr. John Jacobs, Plaintiff's co-owner, are attached as Exhibit 6 to this Declaration.

8. A true and correct copy of the October 18, 2005 letter from Mark Sommers (Defendants' trial counsel) to Robert Kirby (Plaintiff's trial counsel) is attached as Exhibit 7 to this Declaration.

9. A true and correct copy of documents produced by Plaintiff bearing bates numbers 002717-2727, 003441-3452, 003477-3481, 003441-3452, 003477-3481, 003484, and 003503-3504, 003507-3511, 003513-3514, purporting to evidence instances of confusion, are attached as Exhibit 8 to this Declaration. **Because these documents contain confidential information, Exhibit 8 is being filed under seal.**

Executed this 25th day of August, 2006.



Timothy Lemper

CERTIFICATE OF SERVICE

I certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on August 25, 2006.

/s/ Timothy A. Lemper